

## **FCC REQUEST FOR WAIVER – DANVILLE CC SCHOOL DISTRICT 118**

July 13, 2006

Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Room TW-A325  
Washington, DC 20554

### **Request for Waiver and**

**Request for Review of USAC Decision – CC Docket Nos. 96-45 and 02-6**

**Decision being appealed:** SLD Funding Commitment Decision Letter - Denial

**FCDL Date:** April 5, 2006

**Form 471Number:** 464298

**Funding Year:** 2005 (7/1/2005 – 6/30/2006)

**Billed Entity Name:** Danville cc School District 118

**BEN:** 136273

**FRN:** 1278253

**Service Provider:** SBC Datacomm, Inc.

**SPIN:** 143004812

**Contact Person:** Don Dietrich, E-Rate Consultant  
c/o Danville cc School District 118  
Phone: 314-378-1667  
Fax: 636-256-9317  
E-mail: [ddietrich01@earthlink.net](mailto:ddietrich01@earthlink.net)

**Requested Action:** This is both a request for a WAIVER of the 60-day deadline for Appeals and an Appeal for Reconsideration. Appeal decisions that have been recently announced by the FCC have led us to believe that our Funding Request would not have been denied in light of the new guidelines. Unfortunately, we did not become aware of these new decisions until after our 60-day deadline for an SLD appeal had passed in early June. We are not presenting any new information here that was not already presented to SLD / PIA reviewers. We believe that this FRN denial should be addressed and reversed under the criteria of the recent FCC decisions on ministerial errors and Form 470-related procedures announced on the SLD Web site on May 15, 2006 and available at (<http://www.universalservice.org/sl/tools/latest-news.aspx#051506>).

We will briefly state our position on the denial here and we request that the FCC either remand this FRN back to SLD for reconsideration, or simply grant us a WAIVER of the 60-day deadline in order to file an appeal directly with SLD.

**Details:** The SLD's Funding Commitment Decision Letter denied FRN 1278253 for the stated reason: *"THE FRN REFERENCES SERVICES THAT REQUIRE A POSTING OF A 470 FOR EACH FUNDING YEAR"*.

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The FRN in question is for Cisco LAN Switches from SBC Datacomm, under a contract that was originally signed in 2003. The FRN references Form 470# 825160000416035 from 2003 with an "Allowable Contract Date" of 10/14/2002. Because we have worked under contract with this vendor for several years, we did not file a new form 470 in FY2005. However, we did re-sign a contract with SBC to cover the hardware configuration for FY2005. We entered this on the FRN as a "Contract Award Date" of 02/05/2005.

Our PIA reviewer questioned the time lag between the Allowable Contract Date and the Contract Award Date in a fax dated February 27, 2006. He also requested a list of all equipment and a copy of the signed contract. We replied via email on March 14, explaining the situation and we included a full list of the equipment and a copy of the signed contract dated February 10, 2005. In our response, we also asked if we should change the Contract Award Date back to the original 2003 date. We did not receive a response to our question, but we did receive a Funding Commitment Decision Letter denying this FRN. The correspondence with PIA is attached to this document.

We followed up with two phone calls to our reviewer on March 22, 2006 and the reviewer advised that he had received all materials. He also stated that it was his last day to work on our application because he was retiring.

The next communication we received from SLD was our denial letter on April 5, 2006.

**Summary:** Our original reaction to the denial was that we had been wronged, but were left without recourse because of the confusion about Contract Signing Dates and 470 requirements. We have always believed that this denial should be overturned. Now, in light of recent FCC decisions and guidelines and because our Funding Request was made in an honest attempt to follow all SLD guidelines, we feel justified in requesting a Waiver of the appeal deadline and reconsideration of our funding request. We would appreciate being given the opportunity to provide this information (again) to the SLD in an Appeals Procedure, or to re-engage with the PIA team for reconsideration.

Sincerely,

Donald J. Dietrich

*(Submitted Electronically via ECFS)*

E-Rate Consultant for Danville cc School District 118

Phone: 314-378-1667

Fax: 636-256-9317

E-mail: ddietrich01@earthlink.net

Attachments: LOA for Dietrich

PIA Request Dated 02/27/2006

Danville Response dated 03/14/2006

Signed SBC Contract dated 02/10/2005

Bill of Materials to support FRN # 1278253

# FCC REQUEST FOR WAIVER – DANVILLE CC SCHOOL DISTRICT 118

## Attachment 1.1

NO. 247-2000 10.20 FAA 3148613060

DIETRICH LOCKARD GROUP

001



DANVILLE SCHOOL DISTRICT

Nanette L. Mellen  
Superintendent of Schools  
Mark Denman  
Associate Superintendent

### E-Rate LOA (Letter of Agency)

To Whom It May Concern:

We have retained Dietrich Lockard Group under contract as Independent Consultants to serve as our agent for working with E-Rate issues for funding Years 2004 and 2005 in all areas of Telecommunications, Internet Services and Internal Connections. They will be assisting us in compliance issues and forms preparation. Their contact information is shown below:

Dietrich Lockard Group, Inc.  
1516 South Brentwood Blvd, Suite 110  
St. Louis, MO 63144  
Phone: 314-961-3211  
Fax: 314-961-3060

This LOA is in effect thru: 12/31/2005.

Please accept their comments, statements and signatures on our behalf.

We trust you will cooperate with DL Group in every way possible. Thank you.

Signature of District Authority: [Signature] Date: 6/21/05  
Printed Name / Title: Shanee Hinkle / Business Director  
School District Name: Danville Dist #118

cc: Dietrich Lockard Group

Administrative Service Center • 516 North Jackson Street • Danville, Illinois 61832 • (217) 444-1000 • FAX (217) 444-1021

JUN-21-2005 TUE 01:27 PM DANVILLE 118 BUSINESS OF FAX NO. 2174441057

# FCC REQUEST FOR WAIVER – DANVILLE CC SCHOOL DISTRICT 118

02/27/2006 12:46 FAX 3149613080 DIETRICH LOCKARD GROUP 003/005  
2/27/2006 1:43 PM EST To: Carol Underriner @ 13149613080 Solix Fax Page: 3-1

## USAC

Universal Service Administrative Company  
Schools & Libraries Division

February 27, 2006

Shanae Hinkel  
Danville CC School District  
516 N Jackson St.  
Danville, IL. 61832

Re: 471 Application #'s 464928

You were recently sent a written request for additional information needed by the Program Integrity Assurance (PIA) team to review your FY2005 Form 471 Application to ensure that it is in compliance with the rules of the federal universal service program. We requested that the information be provided within seven calendar days. To date, none of the requested information has been received. The information needed to complete the review is listed below.

- The contract award date (CAD) listed for funding requests 1278249 & 1278253 are more than eighteen months after the Allowable Contract Date of the referenced 470. Please provide a rationale summarizing the reason for this time lag.

Please provide a copy of the full contract to support the funding request also. If the contract is a State Master Contract, you do not have to submit a copy of the signed contract if that contract is available online or has already been submitted to PIA. Please provide us with the contract name and number of the State Master Contract. If you have already submitted the relevant contract information in connection with another review, please provide the application number involved so that we can locate the documentation in our files.

Additionally, please verify if the referenced Form 470 is the establishing Form 470 for the services to the entity on this Form 471. If the referenced Form 470 is NOT the establishing Form 470, please provide the 15-digit Form 470 Number that did establish the bidding for the FRN. The establishing Form 470 is the specific Form 470, which was posted for that particular service for 28 days, and pursuant to which a contract was signed or an agreement was entered into. For a request in the Basic Maintenance service category, it is possible that the establishing 470 was filed under an Internal Connections service category. The establishing 470 could have been posted by the State, if the requested services are being purchased off of a State Master Contract.

- Based upon review of your Form 471 application and/or the documentation you provided, we were not able to determine the eligibility of *Non-instructional Facilities*. All locations/facilities must have a valid Entity Number. 999999999 is not a valid entity Number. In order to be eligible to receive discounted services, per the rules of this support mechanism, schools must meet the statutory definition of an elementary or a secondary school found in the No Child Left Behind Act of 2001 (20 U.S.C. Section 7801 (18) and (38)) and they must not be operating as for-profit

businesses, and may not have an endowment exceeding \$50 million. Please provide documentation that will verify that the entity meets the definition provided above.

- Based upon review of your Form 471 application, we were not able to validate your requested discount percentage of 80% for Daniel Elementary & Non Instructional Facility. If you choose to validate your original requested discount percentage then please provide the appropriate documentation if one of the following acceptable methods were used:

- closed*  
*we accept yours*
- a. If the school participates in a National School Lunch Program (NSLP), please provide us a signed copy (preferably by the Principal, Vice-Principal, Superintendent or chief school official, or Director of Food Services) of a Reimbursement Claim Form that the school sends to the state each month. Make sure that the following 3 items are identified:
    - 1) The Entity name
    - 2) The total number of students enrolled at the entity
    - 3) The total number of students eligible for Free/Reduced Lunch Program for the entity

If the school district fills out an aggregate form for the school district, provide a signed letter from a school official (preferably the Superintendent (or chief school official) that lists the enrollment and Free/Reduced information for each school in the district.

- b. If the discount percentage was determined by information obtained from a survey/application, please provide the following information:
  - 1) Total number of students enrolled
  - 2) Total number of surveys/applications sent out
  - 3) Number of surveys/applications returned
  - 4) Total number of students qualified for NSLP per the returned surveys/applications
  - 5) Are the surveys/applications and results kept on file.
  - 6) Provide a sample copy of a FILLED OUT SURVEY/APPLICATION with the child's personal information crossed out for confidentiality.
  - 7) A signed certification that reads: "I certify that only those students who meet the Income Eligibility Guidelines of the National School Lunch Program have been included in Column 5 of Item 9a, of Block 4 of the Form 471."
  - 8) This information must be in writing on school letterhead and signed by a school official (such as the Principal, Vice-Principal, Superintendent or chief school official, Director of Food Services).

- c. If the discount was determined using a different method than what was identified above, please indicate the method that was used and provide all relevant data.

- For FRN's 1278249, 1278250, 1278251 and 1278253, please provide contracts (signed and dated) to support these funding requests.
- For FRN 1278249, please provide a detailed list of all proposed maintenance activities as well as the make and model of all associated equipment.

*D1617M*  
*For FRN*

# FCC REQUEST FOR WAIVER – DANVILLE CC SCHOOL DISTRICT 118

02/27/2006 12:47 FAX 3149613060 DIETRICH LOCKARD GROUP  
2/27/2006 1:43 PM EST To: Carol Underriner @ 13149613060 Solix Fax Page: 3-1

- SBC #802749*
- For FRN 1278253, please provide the make, model and cost associated with all equipment contained in this request.

Please fax or e-mail the requested information to my attention. If you have any questions, please feel free to contact me.

It is important that we receive all of the information requested so we can complete our review. Failure to do so may result in a reduction or denial of funding.

You are being given an additional seven calendar days to respond. If we do not receive the requested information within seven calendar days, your application will be reviewed using the information currently on file. If you need additional time to prepare your response, please let me know as soon as possible.

Should you wish to cancel this application, or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s); along with the application number and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Sincerely,

Larry Bartholomew  
Schools & Libraries Division  
Program Integrity Assurance  
973-581-6754 Voice  
973-599-6521 FAX  
Email: [lbartho@sl.universalservice.org](mailto:lbartho@sl.universalservice.org)

cc: R Reedy – State of IL E-Rate Coordinator

This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message. Any disclosure, copying, or distribution of this message, or the taking of any action based on it, is strictly prohibited.

**DJD@Earthlink**


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**From:** DJD@Earthlink [ddietrich01@earthlink.net]  
**Sent:** Tuesday, March 14, 2006 2:47 PM  
**To:** Larry Bartholomew  
**Cc:** Carol Underriner; Christel Powell; Shanae Hinkle  
**Subject:** 471 App# 464928

Larry,

Answers to all of your questions, except for copies of two contracts, are shown here and in the attached. I will need a few more days to get the remaining items. Is it possible to request one more 7 day extension?

**1. Contract Award Dates:** For FRN 1278249 (Digital PBX Maint), please change the referenced 470# to our 2005 470 # 970360000512119. For FRN 1278253, the original 470 date and contract award dates are correct. This FRN has been submitted over multiple years. The original 470 for the original FRN was from a prior year (as listed on the 471). For this year's submission, we got a revised contract and quote, since some of the Cisco equipment has been upgraded, so we signed a new contract. Let me know if we should change the contract award date back to the original 2003 date(?).

**2. NIF Entity Number:** The NIF in question is the Danville Administration Building, the entity # is 16032724. I have included the following text, taken from the PIA review of our other 471 for this year. It contains all the certifications for the NIF in question as well as the entity number:

Based upon review of your Form 471 application and/or the documentation you provided, we were not able to determine the eligibility of Non-Instructional Facilities (entity # 999999999). In order to be eligible to receive discounted services, per the rules of this support mechanism, the entity providing classroom instruction must be considered part of an elementary or a secondary school found in the No Child Left Behind Act of 2001 (20 U.S.C. Section 7801 (18) and (38)) which is not operating as a for-profit businesses, and does not have an endowment exceeding \$50 million. Please provide documentation that will verify that the entity meets the definition provided above.

Discounts on services to non-instructional facilities are eligible under certain circumstances. Please provide a written response to the following question with respect to your requested Priority 1 Services:

For the entity, Non-Instructional Facilities:

- a. Please specify if it is a stand-alone building. If it is not a stand-alone building, please specify the location (e.g. in a specific school building – elementary school, high school, etc; adjoined to a school building).

The NIF in question is the District Administration Building. This is a stand-alone building.

- b. If the entity is a stand-alone building, please specify whether the facility houses classrooms.

The Administration Building does not house classrooms.

- c. If the entity is a stand-alone building but does not house classrooms, please specify if it is located on a school campus or not? \_\_\_\_ Yes \_\_X\_\_ No

- d. If answered yes and it is on a school campus, please specify whether it serves only one school?

\_\_N/A\_\_

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e. If the entity is a stand-alone building but does not house classrooms and is not located on a school campus, do either of these two descriptions accurately and completely describe your school or school district's situation?

☒ Yes ☐ No

f. If answered yes, specify which description is correct for your school or school district or are both correct?

Both Descriptions below apply.

1.)The non-instructional facility is owned by the school or school district and is used solely for school or school district business. ☒ Yes ☐ No

If the answer is no, please explain \_\_\_\_\_

2.)Only school or school district employees use the non-instructional facility.  
☒ Yes ☐ No

If the answer is no, please explain \_\_\_\_\_

(Sign) (sent via email)  
(Name) Donald J Dietrich  
(Title) E-Rate Consultant  
(Date) June 21, 2005

This line wont move

**3. Daniel Elementary School:** This school has been closed - please remove it from our Block 4. NO costs for this school have been included in the FRN's in question, so no reduction is required. This school was also removed from our other 471 application earlier this year during PIA.

**4. Signed Contracts:** I have attached the signed contract from FRN 1278253 - SBC. Also attached is the quote from Novell. I will forward the others under separate cover.

**5. FRN 1278249 - Maintenance from Digital** - this is a flat fee maintenance contract for the year. This policy covers one NEC Model 2400 IP/PBX at the district offices and 10 NEC Model 2000 PBX's at schools.

**6. FRN 1278253 - SBC Cisco Equipment:** SBC quote by school is shown in attached spreadsheet. Note that there is one tab in the spreadsheet for the totals and additional tabs / one per school showing details.

Thanks,  
Don Dietrich



(PRINT THIS DOCUMENT ON DISTRICT LETTERHEAD)  
**CONTRACT FOR SERVICES AND/OR PRODUCTS FOR E-RATE 2005**

Date: February 9, 2005

TO: SBC Datacom

RE: E-Rate Binding Contract for Funding Year 2005

The School District of Danville, Illinois ("The District") and SBC Datacom ("Service Provider") sign this document for the purchase of eligible equipment and services as described on the attachment to this letter as part of the E-Rate Year 2005 effort. Service Provider was selected based on Service Provider's response to the Board of Education's RFP for E-Rate Year 2005 or on the basis of a qualifying Form 470.

The Board of Education intends to file a Funding Request Form 471 with the Universal Services Administrative Company (USAC), Schools and Libraries Division (SLD) E-Rate Program for eligible equipment and services based upon Service Provider's proposal.

The purchase and providing of the eligible equipment and services described are expressly subject to, and conditioned on, satisfaction of all of the following conditions:

- (i) USAC approval of the Board of Education's request for funding through a formal Funding Commitment Decision Letter;
- (ii) Board of Education formal acceptance of the USAC approved funding;
- (iii) Board of Education formal approval and award of a second detailed contract to Service Provider for the eligible equipment and services covered by the USAC approved funding; and
- (iv) Board of Education and Service Provider entering into and executing a second detailed written contract for the purchase and delivery of the eligible equipment and services.

Service Provider agrees to abide by all terms and conditions of the Universal Service Act of 1996 as implemented by the SLD E-Rate Discount Program in the procurement, delivery, installation, invoicing and all other transactions associated with the project. The term of this contract shall commence on July 1, 2005 and shall terminate on June 30, 2006 for recurring services or on September 30, 2006 for non-recurring services. Total costs of the goods and services shall not exceed \$ 802,745.61 (SLD Pre-Discounted Amount).

Service Provider: SBC Datacom

School District: Danville District #118

SPIN: 143004812

Billed Entity Number: \_\_\_\_\_

Signature: Frank R. Whitney

Signature: Christel Powell

Printed Name: Frank R. Whitney

Printed Name: CHRISTEL POWELL

Title: Integrated Solutions Exec II

Title: Manager of Information Systems

Date: February 10, 2005

Date: 2/9/05



# Danville School District 118

## Danville School Dist 118 - E-Rate 2005 Project

Date	1/3/05
Systems Engineer	Chad Mayfield
Office Telephone	217 527 2024
ISE	Frank Whitney
Office Telephone	217 527 2013
Account Manager	Tim Brozenec
Office Telephone	217 586 6153

### Danville School District - E-Rate 2005 Project Summary Pricing

Insight Core		Danville SD Price
	Subtotal	\$76,178.13
High School		Danville SD Price
	Subtotal	\$286,452.94
North Ridge ES		Danville SD Price
	Subtotal	\$105,738.19
Southview ES		Danville SD Price
	Subtotal	\$105,229.59
Liberty ES		Danville SD Price
	Subtotal	\$39,749.61
Edison ES		Danville SD Price
	Subtotal	\$29,202.36
Northeast ES		Danville SD Price
	Subtotal	\$39,148.78
Southwest ES		Danville SD Price
	Subtotal	\$55,979.74
Admin - ASC		Danville SD Price
	Subtotal	\$37,224.88
Warehouse		Danville SD Price
	Subtotal	\$14,119.26
Total Project Equipment Cost		Danville SD Price
	Project Total	<hr/> \$789,023.46

Quote Valid for 30 Days.